

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

OFFICER BLUE, in his individual & official
compacity, et al.;

Defendants.

8:22CV247

MEMORANDUM AND ORDER

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

MATTHEW PAVEY, and CODY MILLER,
Corpral;

Defendants.

8:23CV214

MEMORANDUM AND ORDER

AUSTIN EDWARD LIGHTFEATHER,

Petitioner,

vs.

ROBERT JEFFREYS, NDCS Director;

Respondent.

8:24CV84

MEMORANDUM AND ORDER

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

SOLLY, Lt., Individual compacity, et al.;

8:24CV176

MEMORANDUM AND ORDER

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| Defendants. | |
| AUSTIN EDWARD LIGHTFEATHER, | |
| Plaintiff, | 8:24CV177 |
| vs. | |
| GRANT JENSEN, In the Individual | MEMORANDUM AND ORDER |
| Compacity of: Behavioral Case Worker; | |
| Defendant. | |
| AUSTIN EDWARD LIGHTFEATHER, | |
| Plaintiff, | 8:24CV181 |
| vs. | |
| NEBRASKA DEPARTMENT OF | MEMORANDUM AND ORDER |
| CORRECTIONS RELIGIOUS CORDNATOR | |
| RUCKER, in his individual compacity, et al.; | |
| Defendants. | |

The above-captioned matters are before the Court on correspondence dated July 12, 2024, from Austin Edward Lightfeather (“Lightfeather”), which the Court docketed as a Motion for Recusal in each case. [Filing No. 18](#), Case No. 8:22CV247; [Filing No. 19](#), Case No. 8:23CV214; [Filing No. 3](#), Case No. 8:24CV84; [Filing No. 7](#), Case No. 8:24CV176; [Filing No. 4](#), Case No. 8:24CV177; [Filing No. 6](#), Case No. 8:24CV181.

Lightfeather requests to have all his currently pending cases assigned to a new judge because he objects to the undersigned’s rulings in his other previously-filed cases. “Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias

or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.” 28 U.S.C. § 144. “[T]he plain text of § 144 mandates only that a district court judge ensure that another judge is assigned to any case in which a litigant has sufficiently alleged bias or prejudice, not that the recusal decision itself be rendered by a judge other than the judge to whom the motion is addressed.” *Akins v. Knight*, 863 F.3d 1084, 1086 (8th Cir. 2017).

“Relief under section 144 is expressly conditioned on the timely filing of a legally sufficient affidavit.” *Holloway v. United States*, 960 F.2d 1348, 1355 (8th Cir. 1992) (quoting *United States v. Faul*, 748 F.2d 1204, 1210 (8th Cir.1984)); see *United States v. Johnson*, 827 F.3d 740, 746 (8th Cir. 2016) (a legally sufficient affidavit is required to disqualify a judge from hearing a case). Because Plaintiff has not filed a legally sufficient affidavit—or, for that matter, any form of affidavit—he is not entitled to any relief under 28 U.S.C. § 144.

Alternatively, a recusal motion may be considered under 28 U.S.C. § 455, which provides, inter alia, that a judge shall disqualify himself where “he has a personal bias or prejudice concerning a party.” 28 U.S.C. § 455(b)(1).

“Under both sections 144 and 455, the moving party is required to show personal bias or prejudice on the part of the presiding judge.” *United States v. Jones*, 801 F.2d 304, 312 (8th Cir. 1986). “To be disqualifying, the judge’s bias or prejudice must stem from an extrajudicial source.” *Id.*; *Rosbach v. United States*, 878 F.2d 1088, 1089 (8th Cir. 1989) (“[T]here is no basis for disqualification absent a showing of personal bias or prejudice arising from an extrajudicial source.”). That is to say, “personal bias or

prejudice” does not include opinions held by judges acquired in the course of the proceedings, nor does it include opinions held as a result of what judges learned in earlier proceedings. See *Liteky v. United States*, 510 U.S. 540, 551 (1994). “Moreover, a party is not entitled to recusal merely because a judge is ‘exceedingly ill disposed’ toward them, where the judge’s ‘knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings’” *In re Steward*, 828 F.3d 672, 682 (8th Cir. 2016) (quoting *Liteky*, 510 U.S. at 551). “Judicial rulings rarely establish a valid basis for recusal.” *United States v. Melton*, 738 F.3d 903, 906 (8th Cir. 2013). “Here, [Lightfeather’s] accusations are premised entirely on unfavorable rulings in previous litigation, which are neither extrajudicial, nor indicative of bias.” *Buttercase v. Frakes*, No. 8:18-CV-131, 2019 WL 2513678, at *1 (D. Neb. June 18, 2019).

Accordingly,

IT IS THEREFORE ORDERED that: Lightfeather’s Motion for Recusal, [Filing No. 18](#), Case No. 8:22CV247; [Filing No. 19](#), Case No. 8:23CV214; [Filing No. 3](#), Case No. 8:24CV84; [Filing No. 7](#), Case No. 8:24CV176; [Filing No. 4](#), Case No. 8:24CV177; [Filing No. 6](#), Case No. 8:24CV181, is denied.

Dated this 9th day of August, 2024.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Judge